

and receipt of the case record under paragraph (a) of this section:

(1) Issue a written decision adopting, remanding, reversing, or modifying NAO's decision or revised decision.

(2) Issue a stay for no more than 90 days to prevent NAO's decision or revised decision from taking effect.

(d) The Regional Administrator must provide a written decision explaining why an NAO decision or revised decision has been remanded, reversed, or modified. Consistent with §906.18(b), the Regional Administrator may, but does not need to, issue a written decision to adopt an NAO decision or revised decision.

(e) The Regional Administrator will serve a copy of any written decision or stay on NAO and the appellant.

§ 906.18 Final decision of the Department.

(a) The Regional Administrator's written decision to adopt, reverse, or modify an NAO decision or revised decision pursuant to §906.17(c) is the final decision of the Department for the purposes of judicial review.

(b) If the Regional Administrator does not take action pursuant to §906.17(c)(1), NAO's decision issued pursuant to §906.15(a) or revised decision issued pursuant to §906.16(d)(2) or (e) becomes the final decision of the Department for the purposes of judicial review 30 days after service of NAO's notification under §906.17(a), or upon expiration of any stay issued by the Regional Administrator pursuant to §906.17(c)(2).

(c) The office that issued the initial administrative determination shall implement the final decision of the Department within 30 days of service of the final decision issued pursuant to §906.18(a), or within 30 days of the decision becoming final pursuant to §906.18(b), to the extent practicable.

PART 908—MAINTAINING RECORDS AND SUBMITTING REPORTS ON WEATHER MODIFICATION ACTIVITIES

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SOURCE: 41 FR 23394, June 10, 1976, unless otherwise noted.

§ 908.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Administrator*. The Administrator of the National Oceanic and Atmospheric Administration.

(b) *Person*. Any individual, corporation, company, association, firm, partnership, society, joint stock company, any State or local government or any agency thereof, or any other organization, whether commercial or nonprofit, except where acting solely as an employee, agent, or independent contractor of the Federal government.

(c) *Weather modification activity*. Any activity performed with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere.

(d) *United States*. The several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or insular possession of the United States.

(e) *Persons whose activities relate to weather modification*. Persons engaged in weather modification activities or engaged in the distribution or sale of weather modification apparatus or materials known by them to be destined for use in weather modification activities.

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(f) *Project*. A related series of weather modification activities having a common objective.

(g) *Target area*. The ground area within which the effects of the weather modification activity are expected to be found.

(h) *Control area*. A preselected, untreated ground area used for comparison with a target area.

(i) *Weather modification apparatus*. Any apparatus used with the intention of producing artificial changes in the composition, behavior, or dynamics of the atmosphere. For example: Seeding generators, propane devices, flares, rockets, artillery projectiles, jet engines, etc.

(j) *Sponsor*. The primary person for whom the weather modification activity is performed.

(k) *Operator*. The person who is primarily responsible for carrying out the weather modification activity.

[41 FR 23394, June 10, 1976, as amended at 46 FR 32233, June 22, 1981]

§ 908.2 Persons subject to reporting.

Any person engaged or intending to engage in any weather modification activity in the United States shall be subject to the reporting provisions of this part.

§ 908.3 Activities subject to reporting.

(a) The following, when conducted as weather modification activities, shall be subject to reporting:

(1) Seeding or dispersing of any substance into clouds or fog, to alter drop size distribution, produce ice crystals or coagulation of droplets, alter the development of hail or lightning, or influence in any way the natural development cycle of clouds or their environment;

(2) Using fires or heat sources to influence convective circulation or to evaporate fog;

(3) Modifying the solar radiation exchange of the earth or clouds, through the release of gases, dusts, liquids, or aerosols into the atmosphere;

(4) Modifying the characteristics of land or water surfaces by dusting or treating with powders, liquid sprays, dyes, or other materials;

(5) Releasing electrically charged or radioactive particles, or ions, into the atmosphere;

(6) Applying shock waves, sonic energy sources, or other explosive or acoustic sources to the atmosphere;

(7) Using aircraft propeller downwash, jet wash, or other sources of artificial wind generation; or

(8) Using lasers or other sources of electromagnetic radiation.

(b) In addition to the activities listed above, other similar activities falling within the definition of weather modification as set forth in § 908.1 are also subject to reporting.

(c) The requirement for reporting shall not apply to activities of a purely local nature that can reasonably be expected not to modify the weather outside of the area of operation. This exception is presently restricted to the use of lightning deflection or static discharge devices in aircraft, boats, or buildings, and to the use of small heat sources, fans, fogging devices, aircraft downwash, or sprays to prevent the occurrence of frost in tracts or fields planted with crops susceptible to frost or freeze damage. Also expected from the requirement for reporting are religious activities or other ceremonies, rites and rituals intended to modify the weather.

(d) All activities noted in paragraphs (a) and (b) of this section are subject to initial reporting. However, after the Administrator has received initial notification of a planned activity, he may waive some of the subsequent reporting requirements. This decision to waive certain reporting requirements will be based on the general acceptability, from a technical or scientific viewpoint, of the apparatus and techniques to be used.

(e) Other reporting exceptions may be made in the future by rule of the Administrator.

§ 908.4 Initial report.

(a) Any person intending to engage in any weather modification project or activity in the United States shall provide a report of his intention, to be received by the Administrator at least 10 days before the commencement of such project or activity. This report shall contain at least the following: